

SENATE BILL 29

D4
SB 173/21 – JPR

(PRE-FILED)

2lr0338
CF HB 83

By: **Senator Elfreth**

Requested: July 23, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Emancipation of a Minor and Authorization to Marry**

3 FOR the purpose of authorizing a minor to file a petition for emancipation of a minor and
4 authorization to marry in the minor’s own name subject to certain requirements;
5 extending the jurisdiction of the equity court to include a petition for emancipation
6 of a minor and authorization to marry; altering the conditions under which an
7 individual who is 17 years old is authorized to marry; prohibiting an individual under
8 the age of 17 years from marrying; and generally relating to emancipation and
9 marriage of minors.

10 BY repealing and reenacting, with amendments,
11 Article – Family Law
12 Section 1–201(b), 2–301, 2–402(b), and 2–405(c)
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – Family Law
17 Section 5–2A–01 through 5–2A–05 to be under the new subtitle “Subtitle 2A.
18 Emancipation of a Minor and Authorization to Marry”
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2021 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

Article – Family Law

24 1–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) An equity court has jurisdiction over:

2 (1) adoption of a child, except for a child who is under the jurisdiction of
3 any juvenile court and who previously has been adjudicated to be a child in need of
4 assistance;

5 (2) alimony;

6 (3) annulment of a marriage;

7 (4) divorce;

8 (5) custody or guardianship of a child except for a child who is under the
9 jurisdiction of any juvenile court and who previously has been adjudicated to be a child in
10 need of assistance;

11 (6) visitation of a child;

12 (7) legitimation of a child;

13 (8) paternity;

14 (9) support of a child; [and]

15 (10) custody or guardianship of an immigrant child pursuant to a motion for
16 Special Immigrant Juvenile factual findings requesting a determination that the child was
17 abused, neglected, or abandoned before the age of 18 years for purposes of § 101(a)(27)(J)
18 of the federal Immigration and Nationality Act; AND

19 **(11) A PETITION FOR EMANCIPATION OF A MINOR AND**
20 **AUTHORIZATION TO MARRY.**

21 2–301.

22 (a) An individual [16 or] 17 years old may not marry unless:

23 [(1) the individual has the consent of a parent or guardian and the parent
24 or guardian swears that the individual is at least 16 years old; or

25 (2) if the individual does not have the consent of a parent or guardian,
26 either party to be married gives the clerk a certificate from a licensed physician, licensed
27 physician assistant, or certified nurse practitioner stating that the physician, physician
28 assistant, or nurse practitioner has examined the woman to be married and has found that
29 she is pregnant or has given birth to a child.]

30 **(1) THE INDIVIDUAL PRESENTS A CERTIFIED COPY OF AN ORDER**

1 GRANTING EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY IN
2 ACCORDANCE WITH THE PROVISIONS OF TITLE 5, SUBTITLE 2A OF THIS ARTICLE TO
3 THE CLERK OF THE CIRCUIT COURT NOT EARLIER THAN 15 DAYS AFTER THE ORDER
4 WAS ISSUED; AND

5 (2) THE OTHER PARTY TO BE MARRIED IS NOT MORE THAN 4 YEARS
6 OLDER THAN THE INDIVIDUAL.

7 (b) [An individual 15 years old may not marry unless:

8 (1) the individual has the consent of a parent or guardian; and

9 (2) either party to be married gives the clerk a certificate from a licensed
10 physician, licensed physician assistant, or certified nurse practitioner stating that the
11 physician, physician assistant, or nurse practitioner has examined the woman to be
12 married and has found that she is pregnant or has given birth to a child.

13 (c) An individual under the age of [15] 17 may not marry.

14 2-402.

15 (b) Except as provided in subsection (d) of this section, to apply for a license, 1 of
16 the parties to be married shall:

17 (1) appear before the clerk and give, under oath, the following information,
18 which shall be placed on an application form by the clerk:

19 (i) the full name of each party;

20 (ii) the place of residence of each party;

21 (iii) the age of each party;

22 (iv) whether the parties are related by blood or marriage and, if so,
23 in which degree of relationship;

24 (v) the marital status of each party; and

25 (vi) whether either party was married previously, and the date and
26 place of each death or judicial determination that ended any former marriage;

27 (2) sign the application form; and

28 (3) provide the clerk with:

29 (I) the Social Security number of each party who has a Social

1 Security number; AND

2 (II) A COPY OF AN OFFICIAL GOVERNMENT–ISSUED BIRTH
3 CERTIFICATE OR OTHER OFFICIAL GOVERNMENT–ISSUED DOCUMENT OR RECORD
4 DEMONSTRATING THE AGE OF EACH PARTY.

5 2–405.

6 (c) (1) If either party to be married is known to be of an age where [the
7 parental or guardian’s consent and oath, or the licensed physician’s certificate] A
8 CERTIFIED COPY OF AN ORDER GRANTING EMANCIPATION OF A MINOR AND
9 AUTHORIZATION TO MARRY, required by § 2–301 of this title, is required, the clerk shall
10 [obtain the consent and oath or the certificate] REVIEW THE CERTIFIED COPY OF THE
11 ORDER before issuing the license.

12 (2) [(i)] The clerk’s record required under this title shall include[:

13 1. the consent and oath required by § 2–301 of this title, if
14 written; or

15 2. the fact that consent was given and an oath was made, if
16 given and made in person.

17 (ii) The licensed physician’s certificate required by § 2–301 of this
18 title may not be made a part of the clerk’s record] A PHOTOCOPY OF THE CERTIFIED
19 COPY OF THE ORDER GRANTING EMANCIPATION OF A MINOR AND AUTHORIZATION
20 TO MARRY REQUIRED UNDER § 2–301 OF THIS TITLE.

21 [(3) After an individual has been issued a license in accordance with the
22 provisions of this subtitle, the clerk who issued the license shall seal the licensed
23 physician’s certificate. Except on order of the court, the licensed physician’s certificate shall
24 remain sealed.]

25 SUBTITLE 2A. EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY.

26 5–2A–01.

27 (A) A MINOR WHO IS 17 YEARS OLD MAY FILE A PETITION IN THE MINOR’S
28 OWN NAME FOR EMANCIPATION OF A MINOR AND AUTHORIZATION TO MARRY IN THE
29 CIRCUIT COURT FOR THE COUNTY IN WHICH THE MINOR RESIDES.

30 (B) A PETITION FOR EMANCIPATION OF A MINOR AND AUTHORIZATION TO
31 MARRY SHALL CONTAIN THE FOLLOWING:

32 (1) THE PETITIONER’S FULL NAME, GENDER, DATE OF BIRTH, AND

1 ADDRESS, INCLUDING THE LENGTH OF TIME THE PETITIONER HAS RESIDED AT THE
2 ADDRESS;

3 (2) THE INTENDED SPOUSE'S FULL NAME, GENDER, DATE OF BIRTH,
4 AND ADDRESS, INCLUDING THE LENGTH OF TIME THE INTENDED SPOUSE HAS
5 RESIDED AT THE ADDRESS;

6 (3) A STATEMENT EXPLAINING HOW THE PARTIES MET AND HOW
7 LONG THEY HAVE KNOWN EACH OTHER;

8 (4) A COPY OF ANY CRIMINAL RECORDS CONCERNING EITHER PARTY
9 AND A COPY OF ANY PEACE ORDER OR PROTECTIVE ORDER ISSUED AGAINST EITHER
10 PARTY; AND

11 (5) EVIDENCE THAT THE MINOR IS MATURE AND CAPABLE OF
12 SELF-SUFFICIENCY AND SELF-SUPPORT INDEPENDENT OF THE MINOR'S PARENTS,
13 GUARDIAN, OR INTENDED SPOUSE.

14 **5-2A-02.**

15 ON THE FILING OF A PETITION FOR EMANCIPATION OF A MINOR AND
16 AUTHORIZATION TO MARRY, A COURT SHALL:

17 (1) APPOINT A LAWYER WITH FAMILY LAW EXPERIENCE TO
18 REPRESENT THE PETITIONER;

19 (2) SET AN EVIDENTIARY HEARING ON THE PETITION; AND

20 (3) PROVIDE THE MINOR WITH THE FOLLOWING:

21 (I) INFORMATION ON THE RIGHTS AND RESPONSIBILITIES OF
22 AN EMANCIPATED MINOR AND PARTIES TO A MARRIAGE;

23 (II) REFERRAL INFORMATION FOR LEGAL AID AGENCIES; AND

24 (III) INFORMATION ON STATE AND NATIONAL HOTLINES FOR
25 CHILD ABUSE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND HUMAN TRAFFICKING.

26 **5-2A-03.**

27 (A) AT THE HEARING, THE COURT SHALL CONDUCT AN IN CAMERA
28 INTERVIEW OF THE PETITIONER SEPARATE FROM THE PETITIONER'S PARENTS OR
29 GUARDIANS AND INTENDED SPOUSE.

1 **(B) (1) NEITHER THE WISHES OF THE PARENTS OR LEGAL GUARDIANS OF**
2 **THE PETITIONER NOR THE FACT THAT THE PETITIONER OR THE INTENDED SPOUSE**
3 **OF THE PETITIONER IS PREGNANT IS SUFFICIENT EVIDENCE TO DETERMINE THAT**
4 **MARRIAGE IS IN THE BEST INTEREST OF THE PETITIONER.**

5 **(2) THERE IS A REBUTTABLE PRESUMPTION THAT EMANCIPATION**
6 **AND MARRIAGE ARE NOT IN THE BEST INTERESTS OF THE PETITIONER IF ALL THE**
7 **PARENTS OR GUARDIANS OF THE PETITIONER OPPOSE THE PETITION.**

8 **(C) SUBJECT TO SUBSECTION (E) OF THIS SECTION, AFTER A HEARING, A**
9 **COURT MAY ISSUE AN ORDER GRANTING EMANCIPATION OF A MINOR AND**
10 **AUTHORIZATION TO MARRY IF THE COURT MAKES WRITTEN FINDINGS THAT:**

11 **(1) THE PETITIONER IS A COUNTY RESIDENT WHO IS AT LEAST 17**
12 **YEARS OLD;**

13 **(2) THE INTENDED SPOUSE OF THE PETITIONER IS NOT MORE THAN 4**
14 **YEARS OLDER THAN THE PETITIONER;**

15 **(3) THE PETITIONER SEEKS TO MARRY VOLUNTARILY AND FREE**
16 **FROM FORCE, COERCION, AND FRAUD; AND**

17 **(4) THE PETITIONER IS MATURE AND CAPABLE OF**
18 **SELF-SUFFICIENCY AND SELF-SUPPORT.**

19 **(D) A COURT MAY DENY A PETITION FOR THE EMANCIPATION OF A MINOR**
20 **AND AUTHORIZATION TO MARRY IF THE COURT MAKES A WRITTEN FINDING THAT**
21 **EMANCIPATION AND MARRIAGE ARE NOT IN THE BEST INTEREST OF THE**
22 **PETITIONER.**

23 **(E) A COURT MAY NOT ISSUE AN ORDER GRANTING EMANCIPATION OF A**
24 **MINOR AND AUTHORIZATION TO MARRY UNDER THIS SECTION IF THE COURT**
25 **DETERMINES THAT:**

26 **(1) THE INTENDED SPOUSE OF THE PETITIONER:**

27 **(I) AT ANY TIME HAS BEEN IN A POSITION OF AUTHORITY OVER**
28 **THE PETITIONER OR IN A POSITION OF SPECIAL TRUST WITH THE PETITIONER OR**
29 **HAS HAD A PROFESSIONAL RELATIONSHIP WITH THE PETITIONER; OR**

30 **(II) HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT FOR:**

31 **1. ANY CRIME AGAINST A MINOR;**

1 2. A CRIME OF VIOLENCE UNDER § 14-101 OF THE
2 CRIMINAL LAW ARTICLE;

3 3. A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF THE
4 CRIMINAL LAW ARTICLE; OR

5 4. HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11
6 OF THE CRIMINAL LAW ARTICLE;

7 (2) ONE PARTY IS PREGNANT OR HAS A CHILD WITH THE OTHER
8 PARTY THAT EVIDENCES THAT THE PETITIONER WAS THE VICTIM OF A SEXUAL
9 CRIME COMMITTED BY THE INTENDED SPOUSE; OR

10 (3) A PROTECTIVE ORDER OR PEACE ORDER WAS ISSUED AGAINST
11 THE INTENDED SPOUSE OF THE PETITIONER, REGARDLESS OF WHETHER THE
12 PETITIONER WAS THE PERSON TO BE PROTECTED.

13 **5-2A-04.**

14 (A) ON THE ISSUANCE OF AN ORDER GRANTING EMANCIPATION OF A MINOR
15 AND AUTHORIZATION TO MARRY, THE CLERK OF THE COURT SHALL PROVIDE A
16 CERTIFIED COPY OF THE ORDER TO THE PETITIONER.

17 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
18 AN ORDER OF EMANCIPATION SHALL HAVE THE SAME EFFECT AS THE PETITIONER
19 REACHING THE AGE OF MAJORITY AND SHALL CONFER ON THE PETITIONER ALL OF
20 THE RIGHTS AND RESPONSIBILITIES OF LEGAL ADULTHOOD.

21 (2) AN ORDER OF EMANCIPATION DOES NOT SUPERSEDE AGE
22 REQUIREMENTS FOR:

23 (I) VOTING;

24 (II) THE PURCHASE, POSSESSION, OR CONSUMPTION OF
25 ALCOHOLIC BEVERAGES;

26 (III) THE PURCHASE, POSSESSION, OR CONSUMPTION OF
27 TOBACCO PRODUCTS OR ELECTRONIC CIGARETTES;

28 (IV) COMPULSORY SCHOOL ATTENDANCE; OR

29 (V) HEALTH AND SAFETY REGULATIONS INCLUDING
30 WORKPLACE REGULATIONS DESIGNED TO PROTECT INDIVIDUALS UNDER THE AGE
31 OF 18 YEARS.

1 **5-2A-05.**

2 **THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS**
3 **OF THIS SUBTITLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2022.